NEW APPLICATION

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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION OF MCC TELEPHONY OF THE WEST, LLC FOR RESCISSION OF THE BOND REQUIREMENT CONTAINED IN ARIZONA CORPORATION COMMISSION DECISION NO. 71965.	DOCKET NO. T-20718A-14-0416

APPLICATION

MCC Telephony of the West, LLC ("MCC Telephony"), requests rescission of the bond requirement contained in Arizona Corporation Commission ("Commission") Decision No. 71965.

BACKGROUND

MCC Telephony was certified to provide facilities-based telecommunications services in Arizona on November 23, 2010. *See* Decision 71965. When MCC Telephony was certified in 2010, the Commission required MCC Telephone to procure and provide to the Commission a performance bond or an irrevocable sight draft letter of credit equal to $225,000. MCC

Telephony complied with this request and a $225,000 bond was delivered to the Commission, and renewed each year in compliance with Decision 71965.

MCC Telephony has complied with Commission regulations and orders since becoming certified. The Commissioner has never drawn on the bond provided by MCC Telephony, and no customer complaint brought into question MCC Telephony's reliability or conduct as a public service corporation. MCC Telephony's certifications occurred in years where it was the general policy of the Commission to require a bond without a specific inquiry into the compliance record of the company. MCC Telephony has shown itself to be a reliable and responsive public service corporation. The bond is not needed to ensure MCC Telephony's compliance with Commission orders. MCC Telephony respectfully asks that the Commission issue an order relieving MCC Telephony of its bond obligation.

ANALYSIS

"In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust." A.A.C. R14-2-1105(D). MCC Telephony is subject to the Arizona Competitive Telecommunications Services Rules, A.A.C. R14-2-1101-1115, and must comply with all rules applicable to the provision of intrastate telecommunications services under the terms of its certification. Decision No. 71965, p.2, para. 6(a). While the Commission may require a performance bond prior to certification, for the reasons set forth below continuing this requirement for MCC Telephony, an established competitive telecommunications company, is unnecessary and costly.

1. Excellent Compliance

MCC Telephony has been a certified carrier in Arizona since 2010. Through-out this period MCC Telephony has complied with the requirements of its certification, including filing annual reports, paying annual assessments for funding the ACC, RUCO (A.R.S. §40-401; §40-401.01) and Arizona universal service. Any complaints against MCC Telephony have been resolved and closed with no formal litigation and without penalty to MCC Telephony. MCC Telephony is available to respond in a timely and responsive manner to any questions or concerns regarding customer service. Today, MCC Telephony does not hold any customer deposits for telecommunications services.

The bond that MCC Telephony has on file with the Commission has never been drawn upon or requested. Obtaining and maintaining this bond creates a significant expense for MCC Telephony and will continue to do so. Moreover, purchasing the bond diverts monies that MCC Telephony could use to grow its network or improve its systems.

2. The Bond Requirement Is Not Necessary or Reasonable.

The Commission "*may* require . . . the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers." A.A.C. R14-2-1105(D) (emphasis added). This rule was invoked by the Commission, as early as 2000, to protect consumers in the event a telecommunications carrier declared bankruptcy or abandoned service. *See, e.g.,* Decision No. 62751 (2000) (*Eschelon Telecom of Arizona CC&N Application*). At that time, many providers were new to Arizona and few carriers had invested in equipment and facilities. The new competitive local exchange carriers ("CLECs") did not have demonstrable operating histories, nor could they offer track records of customer satisfaction. During this period, a bond requirement was the vehicle selected by Commission Staff to protect consumers in the event a provider could not meet its legal obligations. Bonds were one way for the Commission to protect consumers from companies with little or no assets or few ties to Arizona.

Now, fourteen years later, the market is very different. Indeed, customer deposits and advances are no more at risk with an established, facilities-based CLEC like MCC Telephony than they are with Qwest Corporation or Cox, which operate in competition with facilities-based CLECs but carry no performance bonds benefiting the Commission.

MCC Telephony has established through its investment in the state, and by its operating history, that customer deposits are not at risk. Therefore, a bond is not necessary or reasonable given MCC Telephony's history.

3. The Commission is Moving Towards Requiring Bond Only If Necessary

The Commission has issued orders in may proceedings eliminating bond requirements for competitive carrier requirements. *See e.g.* Broadvox-CLEC (Decision No. 74410), Gila Local Exchange Carrier, Inc. (Docket No. T-03943A-14-0013), tw telecom of arizona llc, and XO Communications Services, LLC (Docket No. T-04302A-14-0115); CenturyLink Communications Company, LLC (T-02811B-14-0211). Likewise, the Commission has approved a carrier certification request without requiring a bond of the applicant. *See* TNCI Operating Company, LLC T-20882A-13-0108. In recommending approval of the TNCI certification application, Staff recommended no bond reflecting an appropriate reaction to changes in the competitive telecom market. Staff has recommended a "case by case" analysis for assessing the need for a bond. This makes sense. The Commission retains full authority to impose a bond if Staff is concerned about a company's managerial or technical ability to provide service in Arizona. Companies like MCC Telephony, however, that have been providing service for years, show no history of unresolved customer complaints or problems, and have demonstrated their technical and managerial expertise to provide service, should not be required to post a bond.

4. Bond Documents

If this application is approved, MCC Telephony requests that the bond document be returned to the following MCC Telephony representative:

Anne Sokolin-Maimon
Mediacom Communications
1 Mediacom Way
Mediacom Park, MY 10918

CONCLUSION

For the foregoing reasons, MCC Telephony respectfully requests an order cancelling the bond requirement in Decision No 71965.

RESPECTFULLY SUBMITTED this ___ day of December 2014.

By: Joan S. Burke

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ORIGINAL and thirteen (13) copies of the foregoing
filed this 22nd day of December 2014 with:

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